

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1296/81

RCT:jld:md

In 1/21

DOA:.....Miner, BB0321 - Change certain air permit fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

✓ Don't gen

1 AN ACT ...; relating to: the budget.

✓ analysis insert
Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.370 (2) (bg) of the statutes is amended to read:

3 20.370 (2) (bg) *Air management — stationary sources.* The amounts in the
4 schedule for purposes related to stationary sources of air contaminants as specified
5 in s. 285.69 (2) (c) and to transfer the amounts appropriated under s. 20.143 (1) (kc)
6 to the appropriation account under s. 20.143 (1) (kc). All moneys received from fees
7 imposed on owners and operators of stationary sources for which operation permits
8 are required under the federal clean air act under s. 285.69 (2) (a) and (e), except
9 moneys appropriated under subs. (3) (bg), (8) (mg) and (9) (mh), and all moneys
10 received from fees imposed under s. 285.69 (7) shall be credited to this appropriation.

1 **SECTION 2.** 20.370 (2) (bh) of the statutes is amended to read:

2 20.370 (2) (bh) *Air management — state permit sources.* The amounts in the
3 schedule for purposes related to stationary sources of air contaminants for which an
4 operation permit is required under s. 285.60 but not under the federal clean air act
5 as specified in s. 285.69 (2) (i) (2m) (b). All moneys received from fees imposed under
6 s. 285.69 (1g) and imposed under s. 285.69 (2) on owners and operators of stationary
7 sources for which operation permits are required under s. 285.60 but not under the
8 federal clean air act (2m) shall be credited to this appropriation account.

9 **SECTION 3.** 20.370 (3) (bg) of the statutes is amended to read:

10 20.370 (3) (bg) *Enforcement — stationary sources.* From the general fund, from
11 the moneys received from fees imposed on owners and operators of stationary sources
12 for which operation permits are required under the federal clean air act ✓ under s.
13 285.69 (2) (a) and (e), the amounts in the schedule for enforcement operations related
14 to stationary sources of air contaminants.

15 **SECTION 4.** 20.370 (8) (mg) of the statutes is amended to read:

16 20.370 (8) (mg) *General program operations — stationary sources.* From the
17 general fund, from the moneys received from fees imposed on owners and operators
18 of stationary sources for which operation permits are required under the federal
19 clean air act ✓ under s. 285.69 (2) (a) and (e), the amounts in the schedule for the
20 administration of the operation permit program under ch. 285 and s. 299.15.

21 **SECTION 5.** 20.370 (9) (mh) of the statutes is amended to read:

22 20.370 (9) (mh) *General program operations — stationary sources.* From the
23 general fund, from the moneys received from fees imposed on owners and operators
24 of stationary sources for which operation permits are required under the federal
25 clean air act ✓ under s. 285.69 (2) (a) and (e), the amounts in the schedule for customer

Insert 3-2 ✓

1 service, communications and aids administration for the operation permit program
2 under ch. 285 and s. 299.15.

3 **SECTION 6.** 285.69 (1) (a) (intro.) of the statutes is renumbered 285.69 (1) (a)
4 and amended to read:

5 285.69 (1) (a) *Application for permit.* Reviewing and acting upon any
6 application for a construction permit, ~~except that the department may not impose a~~
7 ~~fee on any of the following persons who apply for a construction permit: for a~~
8 stationary source for which an operation permit is required under the federal clean
9 air act.

10 **SECTION 7.** 285.69 (1) (a) 1. to 3. of the statutes ~~are~~ ^{is} repealed.

11 **SECTION 8.** 285.69 (1g) of the statutes is repealed.

12 **SECTION 9.** 285.69 (2) (title) of the statutes is amended to read:

13 285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE FEDERAL OPERATION
14 PERMITS.

15 **SECTION 10.** 285.69 (2) (a) (intro.) of the statutes is amended to read:

16 285.69 (2) (a) (intro.) The department shall promulgate rules for the payment
17 and collection of fees by the owner or operator of a stationary source for which an
18 operation permit is required under the federal clean air act. The rules shall provide
19 all of the following:

20 **SECTION 11.** 285.69 (2) (c) (intro.) of the statutes is amended to read:

21 285.69 (2) (c) (intro.) The fees collected under pars. (a) and (e) ~~from the owner~~
22 ~~or operator of a stationary source for which an operation permit is required under~~
23 ~~the federal clean air act~~ shall be credited to the appropriations under s. 20.370 (2)
24 (bg), (3) (bg), (8) (mg) and (9) (mh) for the following:

25 **SECTION 12.** 285.69 (2) (f) of the statutes is repealed.

1 **SECTION 13.** 285.69 (2) (g) of the statutes is repealed.

2 **SECTION 14.** 285.69 (2) (h) of the statutes is repealed.

3 **SECTION 15.** 285.69 (2) (i) of the statutes is renumbered 285.69 (2m) (b), and
4 285.69 (2m) (b) (intro.), as renumbered, is amended to read:

5 285.69 (2m) (b) (intro.) The fees collected under this subsection ~~from the owner~~
6 ~~or operator of a stationary source for which an operation permit is required under~~
7 ~~s. 285.60 but not under the federal clean air act and under sub. (1g)~~ shall be credited
8 to the appropriation account under s. 20.370 (2) (bh) for the following purposes as
9 they relate to stationary sources for which an operation permit is required under s.
10 285.60 but not under the federal clean air act:

11 **SECTION 16.** 285.69 (2m) of the statutes is created to read:

12 285.69 (2m) FEES FOR PERSONS REQUIRED TO HAVE STATE OPERATION PERMITS (a)

13 The owner or operator of a stationary source for which an operation permit is
14 required under s. 285.60 but not under the federal clean air act shall pay to the
15 department a fee of \$775 per year, except that, if the stationary source has its
16 potential to emit limited by a federally enforceable permit condition so that it is not
17 a major source, the owner or operator shall pay to the department a fee of \$3,475 per
18 year.

19 **SECTION 9437. Effective dates; Natural Resources.**

20 (1) AIR EMISSION PERMIT FEES. The treatment of sections 20.370 (2) (bg) and (bh),
21 (3) (bg), (8) (mg), and (9) (mh) and 285.69 (1) (a) (intro.) and 1. to 3., (1g), (2) (title),
22 (a) (intro.), (c) (intro.), (f), (g), (h), and (i), and (2m) of the statutes takes effect on
23 January 1, 2010.

24 (END)

1 **Analysis insert**

ENVIRONMENT ✓

AIR QUALITY ✓

The federal government has delegated to DNR the authority to administer the federal Clean Air Act in this state. The Clean Air Act requires operators of certain stationary sources of air pollution, such as large factories, to have operation permits (federal operation permits). State law requires operators of additional stationary sources of air pollution to have operation permits (state operation permits). Generally, current law requires an operator who has either kind of operation permit to pay an annual fee of \$35.71 per ton of certain pollutants emitted, subject to a cap.

This bill changes the annual fees that must be paid by operators who are required to have state operation permits. Under the bill, the annual fee is generally \$775. The fee for an operation permit that contains provisions that limit a source's potential to emit so that the source is not required to have a federal operation permit is \$3,475.

Current law imposes an annual fee of \$300 on the operator of a stationary source of air pollution who is not required to have an operation permit if the stationary source emits more than three tons of certain air pollutants in a year. This bill eliminates that fee.

Current law requires DNR to specify a term of not more than five years for most air pollution operation permits, but the law generally prohibits DNR from specifying an expiration date for certain simplified permits. This bill authorizes DNR to specify a term of more than 5 years for a state operation permit, other than a simplified permit, or to specify that such a state operation permit does not expire.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

2 **Insert 3-2**

3 **SECTION 1.** 285.60 (2) (c) of the statutes is created to read:

4 285.60 (2) (c) *Operation permits to limit federal applicability.* A person may
5 apply for an operation permit for one or more points of emission from an existing
6 source in order to limit the source's potential to emit so that the existing source is not
7 a major source. In a permit under this paragraph, the department shall include
8 federally enforceable conditions that allow the amount of emissions to be at least 80

↓

1 percent of the amount that results in a stationary source being classified as a major
2 source.✓

3 **SECTION 2.** 285.66^x (2) (c) of the statutes is created to read:

4 285.66 (2) (c) Notwithstanding par. (a),[✓] the department[✓] may specify a term of
5 longer than 5[✓] years for an operation permit or specify that an operation permit does
6 not expire if all of the following apply:✓

7 1. The operation permit is for a stationary source for which an operation permit
8 is required under s. 285.60[✓] but not under the federal clean air act.[✓]

9 2. The operation permit is not a registration permit or a general permit.[✓]

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Friday, January 23, 2009 11:51 AM
To: Tradewell, Becky
Subject: FW: LRB Draft: 09-1296/1 Change certain air permit fees
Importance: High

Becky – please see the note from DNR below about draft 1296. Everything in the draft is fine, but they have a suggestion for the introductory language (in red). Thanks - Andrew

From: Potter, Lance - DNR
Sent: Friday, January 23, 2009 11:49 AM
To: Miner, Andrew - DOA
Subject: FW: LRB Draft: 09-1296/1 Change certain air permit fees
Importance: High

Hello Andrew -

Air staff agree with everything in the drafting language. Below Bill Bauman makes a clarifying suggestion to the introductory language which explains the new SM80 fee.

Thanks,

Lance

From: Baumann, William B - DNR
Sent: Friday, January 23, 2009 7:41 AM
To: Potter, Lance - DNR; Stach, Sheralynn S - DNR; Stewart, Andrew M - DNR
Subject: RE: LRB Draft: 09-1296/1 Change certain air permit fees
Importance: High

Lance, Andy & Sheri-

I *think* the statutory language parts are OK - we have changed this so many times, I can't keep it straight any more.

The last sentence in the second paragraph of the introductory summary language on page 1 is incorrect. As written, that sentence says we will charge \$3475 for all synthetic minor permits ("...that contains provisions that limit a source's potential to emit so that the source is not required to have a federal operation permit..."). I recognize that this language is not statutory, but it should probably be made consistent with what the statutory language says and does. I suggest the following:

The fee for an operation permit that contains provisions that allow emissions to be at least 80 percent of major source levels, but that limit a source's potential to emit so that the source is not classified as a major source is \$3475.

-Bill

From: Potter, Lance - DNR
Sent: Thursday, January 22, 2009 1:09 PM
To: Stach, Sheralynn S - DNR; Stewart, Andrew M - DNR; Baumann, William B - DNR

01/23/2009

Subject: FW: LRB Draft: 09-1296/1 Change certain air permit fees

Sheri, Andy, and Bill -

Here is the most recent draft. My quick read of it shows that it agrees with the suggestions. The only question I had was the use of "federal" in the 285.69 (2) (title) and the "federal clean air act" in (2) (a) (intro) is right because the 2m clearly defines the other fees, correct? Please read and get back to me with approval or if you see any problems.

Thanks,

Lance

From: Miner, Andrew - DOA

Sent: Thursday, January 22, 2009 11:19 AM

To: Potter, Lance - DNR

Subject: FW: LRB Draft: 09-1296/1 Change certain air permit fees

Hi Lance – here is the most recent version of the NTV draft. Please take a look and let me know if it properly incorporates everything we've discussed. Thanks - Andrew

From: Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]

Sent: Thursday, January 22, 2009 11:00 AM

To: Miner, Andrew - DOA

Cc: Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA

Subject: LRB Draft: 09-1296/1 Change certain air permit fees

Following is the PDF version of draft 09-1296/1.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1296/2

RCTjld:md

today

YMY

DOA:.....Miner, BB0321 - Change certain air permit fees ✓

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

DNR

✓
1 don't gen ✓
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

AIR QUALITY

The federal government has delegated to DNR the authority to administer the federal Clean Air Act in this state. The Clean Air Act requires operators of certain stationary sources of air pollution, such as large factories, to have operation permits (federal operation permits). State law requires operators of additional stationary sources of air pollution to have operation permits (state operation permits). Generally, current law requires an operator who has either kind of operation permit to pay an annual fee of \$35.71 per ton of certain pollutants emitted, subject to a cap.

✓ some
This bill changes the annual fees that must be paid by operators who are required to have state operation permits. Under the bill, the annual fee is generally \$775. The fee for an operation permit that contains provisions that limit a source's potential to emit so that the source is not required to have a federal operation permit is \$3,475. ✓

Current law imposes an annual fee of \$300 on the operator of a stationary source of air pollution who is not required to have an operation permit if the stationary source emits more than three tons of certain air pollutants in a year. This bill eliminates that fee.

Current law requires DNR to specify a term of not more than five years for most air pollution operation permits, but the law generally prohibits DNR from specifying

an expiration date for certain simplified permits. This bill authorizes DNR to specify a term of more than five years for a state operation permit, other than a simplified permit, or to specify that such a state operation permit does not expire.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.370 (2) (bg) of the statutes is amended to read:

2 20.370 (2) (bg) *Air management — stationary sources.* The amounts in the
3 schedule for purposes related to stationary sources of air contaminants as specified
4 in s. 285.69 (2) (c) and to transfer the amounts appropriated under s. 20.143 (1) (kc)
5 to the appropriation account under s. 20.143 (1) (kc). All moneys received from fees
6 imposed on owners and operators of stationary sources for which operation permits
7 are required under the federal clean air act under s. 285.69 (2) (a) and (e), except
8 moneys appropriated under subs. (3) (bg), (8) (mg) and (9) (mh), and all moneys
9 received from fees imposed under s. 285.69 (7) shall be credited to this appropriation.

10 **SECTION 2.** 20.370 (2) (bh) of the statutes is amended to read:

11 20.370 (2) (bh) *Air management — state permit sources.* The amounts in the
12 schedule for purposes related to stationary sources of air contaminants for which an
13 operation permit is required under s. 285.60 but not under the federal clean air act
14 as specified in s. 285.69 (2) (i) (2m) (b). All moneys received from fees imposed under
15 s. 285.69 (1g) and imposed under s. 285.69 (2) on owners and operators of stationary
16 sources for which operation permits are required under s. 285.60 but not under the
17 federal clean air act (2m) shall be credited to this appropriation account.

18 **SECTION 3.** 20.370 (3) (bg) of the statutes is amended to read:

1 20.370 (3) (bg) *Enforcement — stationary sources*. From the general fund, from
2 the moneys received from fees imposed on owners and operators of stationary sources
3 for which operation permits are required under the federal clean air act under s.
4 285.69 (2) (a) and (e), the amounts in the schedule for enforcement operations related
5 to stationary sources of air contaminants.

6 **SECTION 4.** 20.370 (8) (mg) of the statutes is amended to read:

7 20.370 (8) (mg) *General program operations — stationary sources*. From the
8 general fund, from the moneys received from fees imposed on owners and operators
9 of stationary sources for which operation permits are required under the federal
10 clean air act under s. 285.69 (2) (a) and (e), the amounts in the schedule for the
11 administration of the operation permit program under ch. 285 and s. 299.15.

12 **SECTION 5.** 20.370 (9) (mh) of the statutes is amended to read:

13 20.370 (9) (mh) *General program operations — stationary sources*. From the
14 general fund, from the moneys received from fees imposed on owners and operators
15 of stationary sources for which operation permits are required under the federal
16 clean air act under s. 285.69 (2) (a) and (e), the amounts in the schedule for customer
17 service, communications and aids administration for the operation permit program
18 under ch. 285 and s. 299.15.

19 **SECTION 6.** 285.60 (2) (c) of the statutes is created to read:

20 285.60 (2) (c) *Operation permits to limit federal applicability*. A person may
21 apply for an operation permit for one or more points of emission from an existing
22 source in order to limit the source's potential to emit so that the existing source is not
23 a major source. In a permit under this paragraph, the department shall include
24 federally enforceable conditions that allow the amount of emissions to be at least 80

percent of the amount that results in a stationary source being classified as a major source.

SECTION 7. 285.66 (2) (c) of the statutes is created to read:

285.66 (2) (c) Notwithstanding par. (a), the department may specify a term of longer than 5 years for an operation permit or specify that an operation permit does not expire if all of the following apply:

1. The operation permit is for a stationary source for which an operation permit is required under s. 285.60[✓] but not under the federal clean air act.

2. The operation permit is not a registration permit or a general permit.

SECTION 8. 285.69 (1) (a) 3. of the statutes is repealed.

SECTION 9. 285.69 (1g) of the statutes is repealed.

SECTION 10. 285.69 (2) (title) of the statutes is amended to read:

285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE FEDERAL OPERATION PERMITS.

SECTION 11. 285.69 (2) (a) (intro.) of the statutes is amended to read:

285.69 (2) (a) (intro.) The department shall promulgate rules for the payment and collection of fees by the owner or operator of a stationary source for which an operation permit is required under the federal clean air act. The rules shall provide all of the following:

SECTION 12. 285.69 (2) (c) (intro.) of the statutes is amended to read:

285.69 (2) (c) (intro.) The fees collected under pars. (a) and (e) ~~from the owner or operator of a stationary source for which an operation permit is required under the federal clean air act~~ shall be credited to the appropriations under s. 20.370 (2) (bg), (3) (bg), (8) (mg) and (9) (mh) for the following:

SECTION 13. 285.69 (2) (f) of the statutes is repealed.

1 **SECTION 14.** 285.69 (2) (g) of the statutes is repealed.

2 **SECTION 15.** 285.69 (2) (h) of the statutes is repealed.

3 **SECTION 16.** 285.69 (2) (i) of the statutes is renumbered 285.69 (2m) (b), and
4 285.69 (2m) (b) (intro.), as renumbered, is amended to read:

5 285.69 (2m) (b) (intro.) The fees collected under this subsection from the owner
6 or operator of a stationary source for which an operation permit is required under
7 s. 285.60 but not under the federal clean air act and under sub. (1g) shall be credited
8 to the appropriation account under s. 20.370 (2) (bh) for the following purposes as
9 they relate to stationary sources for which an operation permit is required under s.
10 285.60 but not under the federal clean air act:

11 **SECTION 17.** 285.69 (2m) of the statutes is created to read:

285.69 (2m) FEES FOR STATE PERMIT SOURCES. The owner or operator of a stationary source for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department a fee of \$775 per year, except that the fee for a stationary source that has an operation permit under s. 285.60 (2) (c) is \$3,475 per year.

SECTION 9437. Effective dates; Natural Resources.

(1) AIR EMISSION PERMIT FEES. The treatment of sections 20.370 (2) (bg) and (bh), (3) (bg), (8) (mg), and (9) (mh) and 285.69 (1) (a) 3., (1g), (2) (title), (a) (intro.), (c) (intro.), (f), (g), (h), and (i), and (2m) of the statutes takes effect on January 1, 2010.

21 (END)

Note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1296/2ins
RCT:.....

Insert 5-16

(b) An owner or operator to whom the department has issued an operation permit for one or more points of emission from an existing source in order to limit the source's potential to emit so that the existing source is not a major source shall pay to the department a fee of \$3,475 per year if the operation permit includes federally enforceable conditions that allow the amount of emissions to be at least 80 percent of the amount that results in a stationary source being classified as a minor source.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1296/2dn

RCT:.....

date

ju

Andrew Miner:

The comments from DNR[✓] about the analysis on the previous version of this draft made me realize that there was a problem with the statutory language in that version.

As written, the language in s. 285.60 (2) (c)[✓] authorizes DNR to issue a permit^g for certain sources (synthetic minor sources), but only if it allows those sources to emit at the 80[✓] percent level or above. Now I understand that this was not the intent of the language that DNR proposed.

If proposed s. 285.60 (2) (c)[✓] was only intended to describe the sources that must pay the higher fee (those that are allowed to emit at the 80[✓] percent level or above), that purpose should be accomplished either by creating a definition in s. 285.01[✓] or by describing those sources in the fee statute itself. Because I could not think of a good term to define, this redraft takes the second approach.

The language that DNR proposed for the analysis is more detailed than we usually use, so I have just modified the analysis so that the sentence indicates that only some of these sources pay the higher fee.[✓]

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1296/2dn
RCT:jld:rs

January 23, 2009

Andrew Miner:

The comments from DNR about the analysis on the previous version of this draft made me realize that there was a problem with the statutory language in that version.

As written, the language in s. 285.60 (2) (c) authorizes DNR to issue a permit for certain sources (synthetic minor sources), but only if it allows those sources to emit at the 80 percent level or above. Now I understand that this was not the intent of the language that DNR proposed.

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Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Tuesday, January 27, 2009 12:55 PM
To: Tradewell, Becky
Subject: FW: LRB Draft: 09-1296/2 Change certain air permit fees
Importance: High

Becky – Please see DNR's note below on draft 1296 and make the change they suggest on page 5 if you can.
Thanks - Andrew

From: Potter, Lance - DNR
Sent: Tuesday, January 27, 2009 12:50 PM
To: Miner, Andrew - DOA
Subject: FW: LRB Draft: 09-1296/2 Change certain air permit fees
Importance: High

Andrew -

Air folks met today to look over the most recent draft. All seems ok, but changes needed on page 5, line 13.

Thanks,

Lance

From: Stach, Sheralynn S - DNR
Sent: Tuesday, January 27, 2009 12:20 PM
To: Potter, Lance - DNR
Cc: Melby Jr, John H - DNR; Scott, Michael D - DNR; Baumann, William B - DNR; Stewart, Andrew M - DNR
Subject: FW: LRB Draft: 09-1296/2 Change certain air permit fees
Importance: High

Hi Lance,

We have reviewed and discussed the latest version of this bill. Here are our comments:

- Page 1: The language we provided to help clarify paragraph 2 in the introduction was not used by LRB. With their addition of the word "some" we are OK with the intro as it stands.
- Pages 2 - 4: all OK
- Page 5 lines 7 - 13: We understand LRB's rationale to not create the "SM80 definition" in 285.60 (2)(c) and include the language as part of 285.69 (2m). However, the sentence in line 13 needs to be fixed. The end of this sentence does not correspond to the definition and needs to read:

line 13: of the amount that ~~results in~~ classifies a stationary source ~~being classified~~ as a ~~minor~~ major source.

Please let us know if you or LRB have any questions. As a reminder, John, Bill, Andy and me will all be out of the office tomorrow.

Thank you,
Sheri

01/28/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1296/23
RCT:jld:rs

In 1/28

mw

DOA:.....Miner, BB0321 - Change certain air permit fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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an expiration date for certain simplified permits. This bill authorizes DNR to specify a term of more than five years for a state operation permit, other than a simplified permit, or to specify that such a state operation permit does not expire.

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12 schedule for purposes related to stationary sources of air contaminants for which an
13 operation permit is required under s. 285.60 but not under the federal clean air act
14 as specified in s. 285.69 (2) ~~(i)~~ (2m) (b). All moneys received from fees imposed under
15 s. 285.69 ~~(1g) and imposed under s. 285.69 (2) on owners and operators of stationary~~
16 ~~sources for which operation permits are required under s. 285.60 but not under the~~
17 ~~federal clean air act~~ (2m) shall be credited to this appropriation account.

18 **SECTION 3.** 20.370 (3) (bg) of the statutes is amended to read:

1 20.370 (3) (bg) *Enforcement — stationary sources*. From the general fund, from
2 the moneys received from fees imposed on owners and operators of stationary sources
3 for which operation permits are required under the federal clean air act under s.
4 285.69 (2) (a) and (e), the amounts in the schedule for enforcement operations related
5 to stationary sources of air contaminants.

6 **SECTION 4.** 20.370 (8) (mg) of the statutes is amended to read:

7 20.370 (8) (mg) *General program operations — stationary sources*. From the
8 general fund, from the moneys received from fees imposed on owners and operators
9 of stationary sources for which operation permits are required under the federal
10 clean air act under s. 285.69 (2) (a) and (e), the amounts in the schedule for the
11 administration of the operation permit program under ch. 285 and s. 299.15.

12 **SECTION 5.** 20.370 (9) (mh) of the statutes is amended to read:

13 20.370 (9) (mh) *General program operations — stationary sources*. From the
14 general fund, from the moneys received from fees imposed on owners and operators
15 of stationary sources for which operation permits are required under the federal
16 clean air act under s. 285.69 (2) (a) and (e), the amounts in the schedule for customer
17 service, communications and aids administration for the operation permit program
18 under ch. 285 and s. 299.15.

19 **SECTION 6.** 285.66 (2) (c) of the statutes is created to read:

20 285.66 (2) (c) Notwithstanding par. (a), the department may specify a term of
21 longer than 5 years for an operation permit or specify that an operation permit does
22 not expire if all of the following apply:

23 1. The operation permit is for a stationary source for which an operation permit
24 is required under s. 285.60 but not under the federal clean air act.

25 2. The operation permit is not a registration permit or a general permit.

1 **SECTION 7.** 285.69 (1) (a) 3. of the statutes is repealed.

2 **SECTION 8.** 285.69 (1g) of the statutes is repealed.

3 **SECTION 9.** 285.69 (2) (title) of the statutes is amended to read:

4 285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE FEDERAL OPERATION
5 PERMITS.

6 **SECTION 10.** 285.69 (2) (a) (intro.) of the statutes is amended to read:

7 285.69 (2) (a) (intro.) The department shall promulgate rules for the payment
8 and collection of fees by the owner or operator of a stationary source for which an
9 operation permit is required under the federal clean air act. The rules shall provide
10 all of the following:

11 **SECTION 11.** 285.69 (2) (c) (intro.) of the statutes is amended to read:

12 285.69 (2) (c) (intro.) The fees collected under pars. (a) and (e) ~~from the owner~~
13 ~~or operator of a stationary source for which an operation permit is required under~~
14 ~~the federal clean air act~~ shall be credited to the appropriations under s. 20.370 (2)
15 (bg), (3) (bg), (8) (mg) and (9) (mh) for the following:

16 **SECTION 12.** 285.69 (2) (f) of the statutes is repealed.

17 **SECTION 13.** 285.69 (2) (g) of the statutes is repealed.

18 **SECTION 14.** 285.69 (2) (h) of the statutes is repealed.

19 **SECTION 15.** 285.69 (2) (i) of the statutes is renumbered 285.69 (2m) (b), and
20 285.69 (2m) (b) (intro.), as renumbered, is amended to read:

21 285.69 (2m) (b) (intro.) The fees collected under this subsection ~~from the owner~~
22 ~~or operator of a stationary source for which an operation permit is required under~~
23 ~~s. 285.60 but not under the federal clean air act and under sub. (1g)~~ shall be credited
24 to the appropriation account under s. 20.370 (2) (bh) for the following purposes as

1 they relate to stationary sources for which an operation permit is required under s.
2 285.60 but not under the federal clean air act:

3 **SECTION 16.** 285.69 (2m) of the statutes is created to read:

4 **285.69 (2m) FEES FOR STATE PERMIT SOURCES.** (a) The owner or operator of a
5 stationary source for which an operation permit is required under s. 285.60 but not
6 under the federal clean air act shall pay to the department a fee of \$775 per year,
7 except as provided in par. (b).

8 (b) An owner or operator to whom the department has issued an operation
9 permit for one or more points of emission from an existing source in order to limit the
10 source's potential to emit so that the existing source is not a major source[✓] shall pay
11 to the department a fee of \$3,475 per year if the operation permit includes federally
12 enforceable conditions that allow the amount of emissions to be at least 80 percent
13 of the amount that results in a stationary source being classified as a ^{major} ~~minor~~ source.

14 **SECTION 9437. Effective dates; Natural Resources.**

15 (1) AIR EMISSION PERMIT FEES. The treatment of sections 20.370 (2) (bg) and (bh),
16 (3) (bg), (8) (mg), and (9) (mh) and 285.69 (1) (a) 3., (1g), (2) (title), (a) (intro.), (c)
17 (intro.), (f), (g), (h), and (i), and (2m) of the statutes takes effect on January 1, 2010.

18 (END)

Note

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

09-1296/3dn
Ret:Andrew Miner:

I corrected my error on ^{page} page 5, line 13, by changing
"miner" to "major." I did not make the other change in DNR's

suggested language because the language in the draft
is consistent with s. 285.11(16) and I do not think
that an amount ^{can} classify something.

Ret

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

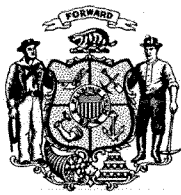
LRB-1296/3dn
RCT:jld:ph

January 28, 2009

Andrew Miner:

I corrected my error on page 5, line 13, by changing "minor" to "major." I did not make the other change in DNR's suggested language because the language in the draft is consistent with s. 285.11 (16) and I do not think that an amount can classify something.

Rebecca C. Tradewell
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1296/3

RCT:jld:ph

DOA:.....Miner, BB0321 - Change certain air permit fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

AIR QUALITY

The federal government has delegated to DNR the authority to administer the federal Clean Air Act in this state. The Clean Air Act requires operators of certain stationary sources of air pollution, such as large factories, to have operation permits (federal operation permits). State law requires operators of additional stationary sources of air pollution to have operation permits (state operation permits). Generally, current law requires an operator who has either kind of operation permit to pay an annual fee of \$35.71 per ton of certain pollutants emitted, subject to a cap.

This bill changes the annual fees that must be paid by operators who are required to have state operation permits. Under the bill, the annual fee is generally \$775. The fee for some operation permits that contain provisions that limit a source's potential to emit so that the source is not required to have a federal operation permit is \$3,475.

Current law imposes an annual fee of \$300 on the operator of a stationary source of air pollution who is not required to have an operation permit if the stationary source emits more than three tons of certain air pollutants in a year. This bill eliminates that fee.

Current law requires DNR to specify a term of not more than five years for most air pollution operation permits, but the law generally prohibits DNR from specifying

an expiration date for certain simplified permits. This bill authorizes DNR to specify a term of more than five years for a state operation permit, other than a simplified permit, or to specify that such a state operation permit does not expire.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.370 (2) (bg) of the statutes is amended to read:

2 20.370 (2) (bg) *Air management — stationary sources.* The amounts in the
3 schedule for purposes related to stationary sources of air contaminants as specified
4 in s. 285.69 (2) (c) and to transfer the amounts appropriated under s. 20.143 (1) (kc)
5 to the appropriation account under s. 20.143 (1) (kc). All moneys received from fees
6 imposed on owners and operators of stationary sources for which operation permits
7 are required under the federal clean air act under s. 285.69 (2) (a) and (e), except
8 moneys appropriated under subs. (3) (bg), (8) (mg) and (9) (mh), and all moneys
9 received from fees imposed under s. 285.69 (7) shall be credited to this appropriation.

10 **SECTION 2.** 20.370 (2) (bh) of the statutes is amended to read:

11 20.370 (2) (bh) *Air management — state permit sources.* The amounts in the
12 schedule for purposes related to stationary sources of air contaminants for which an
13 operation permit is required under s. 285.60 but not under the federal clean air act
14 as specified in s. 285.69 (2) (i) (2m) (b). All moneys received from fees imposed under
15 s. 285.69 (1g) and imposed under s. 285.69 (2) on owners and operators of stationary
16 sources for which operation permits are required under s. 285.60 but not under the
17 federal clean air act (2m) shall be credited to this appropriation account.

18 **SECTION 3.** 20.370 (3) (bg) of the statutes is amended to read:

1 20.370 (3) (bg) *Enforcement — stationary sources*. From the general fund, from
2 the moneys received from fees imposed ~~on owners and operators of stationary sources~~
3 ~~for which operation permits are required under the federal clean air act~~ under s.
4 285.69 (2) (a) and (e), the amounts in the schedule for enforcement operations related
5 to stationary sources of air contaminants.

6 **SECTION 4.** 20.370 (8) (mg) of the statutes is amended to read:

7 20.370 (8) (mg) *General program operations — stationary sources*. From the
8 general fund, from the moneys received from fees imposed ~~on owners and operators~~
9 ~~of stationary sources for which operation permits are required under the federal~~
10 ~~clean air act~~ under s. 285.69 (2) (a) and (e), the amounts in the schedule for the
11 administration of the operation permit program under ch. 285 and s. 299.15.

12 **SECTION 5.** 20.370 (9) (mh) of the statutes is amended to read:

13 20.370 (9) (mh) *General program operations — stationary sources*. From the
14 general fund, from the moneys received from fees imposed ~~on owners and operators~~
15 ~~of stationary sources for which operation permits are required under the federal~~
16 ~~clean air act~~ under s. 285.69 (2) (a) and (e), the amounts in the schedule for customer
17 service, communications and aids administration for the operation permit program
18 under ch. 285 and s. 299.15.

19 **SECTION 6.** 285.66 (2) (c) of the statutes is created to read:

20 285.66 (2) (c) Notwithstanding par. (a), the department may specify a term of
21 longer than 5 years for an operation permit or specify that an operation permit does
22 not expire if all of the following apply:

23 1. The operation permit is for a stationary source for which an operation permit
24 is required under s. 285.60 but not under the federal clean air act.

25 2. The operation permit is not a registration permit or a general permit.

1 **SECTION 7.** 285.69 (1) (a) 3. of the statutes is repealed.

2 **SECTION 8.** 285.69 (1g) of the statutes is repealed.

3 **SECTION 9.** 285.69 (2) (title) of the statutes is amended to read:

4 285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE FEDERAL OPERATION
5 PERMITS.

6 **SECTION 10.** 285.69 (2) (a) (intro.) of the statutes is amended to read:

7 285.69 (2) (a) (intro.) The department shall promulgate rules for the payment
8 and collection of fees by the owner or operator of a stationary source for which an
9 operation permit is required under the federal clean air act. The rules shall provide
10 all of the following:

11 **SECTION 11.** 285.69 (2) (c) (intro.) of the statutes is amended to read:

12 285.69 (2) (c) (intro.) The fees collected under pars. (a) and (e) ~~from the owner~~
13 ~~or operator of a stationary source for which an operation permit is required under~~
14 ~~the federal clean air act~~ shall be credited to the appropriations under s. 20.370 (2)
15 (bg), (3) (bg), (8) (mg) and (9) (mh) for the following:

16 **SECTION 12.** 285.69 (2) (f) of the statutes is repealed.

17 **SECTION 13.** 285.69 (2) (g) of the statutes is repealed.

18 **SECTION 14.** 285.69 (2) (h) of the statutes is repealed.

19 **SECTION 15.** 285.69 (2) (i) of the statutes is renumbered 285.69 (2m) (b), and
20 285.69 (2m) (b) (intro.), as renumbered, is amended to read:

21 285.69 (2m) (b) (intro.) The fees collected under this subsection ~~from the owner~~
22 ~~or operator of a stationary source for which an operation permit is required under~~
23 ~~s. 285.60 but not under the federal clean air act and under sub. (1g)~~ shall be credited
24 to the appropriation account under s. 20.370 (2) (bh) for the following purposes as

1 they relate to stationary sources for which an operation permit is required under s.
2 285.60 but not under the federal clean air act:

3 **SECTION 16.** 285.69 (2m) of the statutes is created to read:

4 285.69 (2m) FEES FOR STATE PERMIT SOURCES. (a) The owner or operator of a
5 stationary source for which an operation permit is required under s. 285.60 but not
6 under the federal clean air act shall pay to the department a fee of \$775 per year,
7 except as provided in par. (b).

8 (b) An owner or operator to whom the department has issued an operation
9 permit for one or more points of emission from an existing source in order to limit the
10 source's potential to emit so that the existing source is not a major source shall pay
11 to the department a fee of \$3,475 per year if the operation permit includes federally
12 enforceable conditions that allow the amount of emissions to be at least 80 percent
13 of the amount that results in a stationary source being classified as a major source.

14 **SECTION 9437. Effective dates; Natural Resources.**

15 (1) AIR EMISSION PERMIT FEES. The treatment of sections 20.370 (2) (bg) and (bh),
16 (3) (bg), (8) (mg), and (9) (mh) and 285.69 (1) (a) 3., (1g), (2) (title), (a) (intro.), (c)
17 (intro.), (f), (g), (h), and (i), and (2m) of the statutes takes effect on January 1, 2010.

18 (END)